

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 9, 12-14, and 16 are currently pending in this application. Claims 10, 11, and 15 have been canceled by this reply, without prejudice or disclaimer. Claim 9 is independent. The remaining claims depend from claim 9.

Information Disclosure Statement (IDS)

The Examiner indicated that references included in the Specification are not in proper format for a formal IDS submission and therefore, some of the references were not considered on the merits. Applicant has included an IDS submission along with this reply, and respectfully requests the Examiner to initial and return the IDS upon consideration of the references listed.

Abstract

The Examiner has objected to the Abstract of the Disclosure for containing legalese and being in improper format. The original Abstract has been replaced by the new Abstract in this reply. No new matter is added. Accordingly, withdrawal of this objection is respectfully requested.

Claim Amendments

Claim 9 has been amended for purposes of clarification. Various dependent claims have been amended to update dependencies and correspond to the changes made to claim 9. No new

matter is added by way of these amendments. Support for these amendments may be found, for example, at least in the originally filed claims and in Figure 2 of the Specification.

Rejection(s) under 35 U.S.C. § 102

Claims 9-14

Claims 9-14 are rejected under 35 U.S.C § 102(a) as being anticipated by JP 2002/325422 ("Kuwabara"). Claims 10, 11, and 15 have been canceled by this reply; thus, this rejection is now moot with respect to the canceled claims. To the extent that this rejection may still apply to the remaining amended claims, this rejection is respectfully traversed.

Kuwabara fails to disclose the limitations of canceled claim 15, the subject matter of which has now been incorporated into amended independent claim 9. This is evident by the fact that the Examiner relies on Kuwabara to reject claims 9-14. Therefore, amended claim 9 is now patentable over Kuwabara. Pending dependent claims are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 9 and 11-15

Claims 9 and 11-15 are rejected under 35 U.S.C § 102(b) as being anticipated by US Patent No. 4,864,173 ("Even"). Claims 10, 11, and 15 have been canceled by this reply; thus, this rejection is now moot with respect to the canceled claims. To the extent that this rejection may still apply to the remaining amended claims, this rejection is respectfully traversed.

Even fails to disclose the limitations of canceled claim 10, the subject matter of which has been incorporated into amended independent claim 9. This is evident by the fact that the Examiner relies on Even solely for the purpose of disclosing the limitations of claims 9 and 11-15.

The Examiner asserts that the limitation reciting "wherein the electromagnetic retarder is configured to be offset in relation to the transmission" is interpreted as suggestive language, and not as positively claiming the recited features. Applicant has removed the language reciting "configured to be" so that the claim now affirmatively recites that the electromagnetic retarder is offset with respect to the transmission. Accordingly, Applicant respectfully requests the Examiner to interpret the aforementioned limitation as positively claiming the feature recited.

Even fails to disclose a speed increasing device and the offset position of the electromagnetic retarder described above. Specifically, the gear box (30) of Even is not a speed increasing device. The gear box (30) is simply a set of wheels that is part of a gearmotor containing a system of gears and an output shaft that multiplies engine torque (*see* ordinary and customary definition of gearbox, at <http://www.power-technology.com/glossary/gearbox.html>). Thus, the gearbox includes equipment, and is not a device for increasing the speed. In addition, the shaft (1) of the transmission of Even is *not offset* in relation to the retarder, but rather, is coaxial to the retarder (*see* Even, Fig. 3).

With respect to dependent claim 13, Applicant notes that reference number 19 of Even is not an arm, but rather is a *sleeve* that forms a tube for housing two jaws (33 and 34 of Even). *See* Even, col. 4, ll. 21-28. Thus, Even fails to disclose an arm that is integrated with the rotor of the retarder, as required by claim 13.

In view of the above, it is clear that Even fails to disclose each and every limitation of amended independent claim 9. Thus, claim 9 is patentable over Even. Pending dependent claims are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection(s) under 35 U.S.C. § 103

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Even in view of DE 29609311. Claim 10 has been canceled by this reply, thus this rejection is now moot. However, as the limitations of original claim 10 have been incorporated into claim 9, to the extent that this rejection may still apply to claim 9, this rejection is respectfully traversed.

First, Applicant asserts that there is no motivation or suggestion to combine Even with DE 29609311. In DE 29609311, the coil 24 (Magnetspulen 24) are carried by the stator 18 and *not by the rotor*, as required by the claimed invention. Thus, the combination of Even with DE 29609311 does not make sense. One skilled in the art would not combine Even with DE 29609311 to achieve the claimed invention because associating the coil with the stator completely changes the configuration of the claimed invention, which requires that the rotor carry the coil.

Even assuming *arguendo* that Even can be combined with DE 29609311, as described above, Even fails to teach the limitations of amended independent claim 9, including a speed increasing device. Further, DE 29609311 fails to supply that which Even lacks, as evident by the fact that the Examiner relies on DE 29609311 solely for the purpose of teaching the limitation "wherein the rotor and the stator are coaxial and define an axis of the electromagnetic retarder, and

wherein the axis of the electromagnetic retarder is offset from and parallel to an axis of the transmission.”

In view of the above, amended independent claim 9 is patentable over Even and DE 29609311, whether considered separately or in combination. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Even in view of US Patent No. 5,270,605 (“Lefrancois”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, Even fails to teach or suggest the limitations of the amended independent claims. Further, Lefrancois fails to supply that which Even lacks, as evident by the fact that the Examiner relies on Lefrancois solely for the purpose of teaching an alternator partially disposed inside the rotor. See Action mailed March 6, 2008, page 6. In view of the above, it is clear that amended claim 9 is patentable over Even and Lefrancois, whether considered separately or in combination. Dependent claim 16 is patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 17170/008001).

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Respectfully submitted,

By 

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Attachments (IDS)